

MARTIN LUTHER KING III

September 4, 2014

The Honorable Eric H. Holder, Jr.
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530-0001

Dear Mr. Attorney General:

First, let me commend your outstanding leadership in bringing the legal and moral authority of your office to bear on ensuring that the American justice system works equally and fairly for all citizens. Through your hands-on outreach, ordinary American families now know that the highest law enforcement official in the country cares deeply about issues that directly affect their lives and well-being.

In this connection, we are writing to call your attention to deeply troubling developments in the housing finance sector. A campaign is underway that is seriously undermining federal and state efforts to help struggling homeowners recover from the devastating housing crisis that continues to afflict many parts of America, particularly in hard-hit communities of color.

For these hard-working families, homeownership was a significant milestone in their pursuit of the American dream that was abruptly ended by the threat or reality of foreclosure. One of the avenues of remediation for those victims of the greed-driven real estate schemes at the root of the crisis – with complicity throughout the financial sector – was the establishment of an Independent Foreclosure Review (IFR) by the Office of the Comptroller of the Currency, the Federal Reserve and the Office of Thrift Supervision.

We were pleased to have participated in an IFR-sponsored outreach effort in January 2013 to create awareness of opportunities for redress among affected communities through speaking to nearly 8,000 members in denomination anchor churches across the country. Pastors of affiliated congregations in turn informed their congregations and along with the distribution of CDs, it is estimated that almost eight million persons were reached.

Since that time, regrettably, the impact of the push for unjust foreclosures remains largely undiminished. Moreover, the positive steps being taken by the IFR and other remedial initiatives have been overshadowed by equally vigorous efforts to protect the interests of the financial sector, as opposed to those of the homeowners. We urge your intervention to address this critical matter.

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As you may recall, last year an industry association that represents various hedge funds and other investors in mortgage-backed securities delivered objections to you about the inclusion of mortgage loan modification requirements in government settlement agreements with large banks. In fact, since the very outset of the mortgage crisis, certain MBS bondholder interests broadly objected to foreclosure avoidance, loan modifications and principal reductions as tools to redress the mortgage crisis. This anti-modification campaign has included efforts to block banks – through threats of legal action and high-pressure lobbying efforts aimed at MBS trustees, rating agencies, regulators and policy makers – from transferring their servicing rights to servicers that utilize mortgage modifications.

The pro-foreclosure forces are now starting to make good on their threats. They are relentlessly pursuing a litigation strategy designed to encourage more home foreclosures and thwart efforts to help homeowners remain in their homes through loan modifications and loan principal reductions.

At a time when the mortgages of more than nine million American homeowners remain under water, and after all of the economic harm the nation has suffered from the housing crisis and the millions of foreclosures it has wrought, it is reprehensible that anyone today could deliberately support more foreclosures and more suffering. But that is exactly what the plaintiffs in these actions -- a group of hedge funds, insurance companies and other large financial interests led by Blackrock, Pacific Investment Management Company (PIMCO), Charles Schwab, Prudential Insurance and AEGON -- are seeking.¹

The plaintiffs' goal is to pressure banks and MBS trustees to stop using mortgage servicers that employ principal reductions and loan modifications as tools to help homeowners stay in their homes. Instead, the plaintiff financial firms want mortgage servicing to be performed only by their hand-picked servicers, so that they can be assured delinquent loans will be foreclosed quickly rather than modified for the long term. The plaintiffs are evidently motivated by a desire to secure short-term profits via foreclosures without regard for the resulting harm to homeowners, neighborhoods and the housing market nationally.

These cynical efforts run directly counter to the strong public policy interests in favor of principal reductions and mortgage modifications, and they appear to be without legal merit. Nevertheless, the plaintiffs hope that the mere filing of legal actions will pressure banks and mortgage trustees to enter into settlements that result in quick foreclosures rather than mortgage modifications.

¹ See, e.g., Blackrock, et al v. Deutsche Bank, New York State Supreme Court Index No. 651865-2014, filed June 18, 2014.

In at least one such case, this strategy seems to have been successful: In November 2013, J.P. Morgan Chase (JPMC) entered into a settlement with plaintiffs Blackrock, PIMCO, AEGON and Prudential that expressly prohibits JPMC from providing principal reduction modifications for mortgages having a loan to value ratio of less than 115 percent. If such a prohibition were extended to apply to other mortgage-backed securities, most principal write down modifications would cease and foreclosures would increase dramatically, with all the familiar negative effects on families, communities and the broader housing market.

There can be no question that the impact of such an outcome would be felt most acutely in communities of color and other hard-hit areas where the effects of the foreclosure crisis have not yet begun to subside. Studies have shown that in zip codes where most residents are African American, Latino or Asian, the average lost wealth per household as a result of the crisis has been almost twice as large as the loss in majority-white zip codes. Homeowners in our communities are still struggling to stay in their homes. In many cases the possibility of a mortgage modification is the only hope they have of keeping their homes and avoiding economic ruin for their families.

More foreclosures and fewer principal reductions and loan modifications would directly undermine the purpose of the government's mortgage modification programs. These initiatives have helped more than one million struggling families modify their mortgages and stay in their homes. Millions more Americans have been helped by similar mortgage modifications executed by private lenders outside the government programs.

The new push for foreclosures also stands in contradiction to the 2012 National Mortgage Settlement negotiated under your leadership by the Justice Department and attorneys general in 49 states, specifically requiring banks and other mortgage market participants to pay significant sums to borrowers and to foreclosure prevention programs, including loan modification initiatives.

The plaintiffs in these new lawsuits are attempting to use the justice system to achieve a result that is contrary to the concerted efforts of the federal and state governments over the last six years to help struggling homeowners. We believe that justice demands a strong answer to this cynical litigation strategy.

We therefore respectfully request that the following steps be taken as soon as possible:

1. That the Department of Justice intervene in whatever manner it deems appropriate in all pending and any future suits filed for the purpose of encouraging foreclosures and/or discouraging principal reductions and mortgage modifications;

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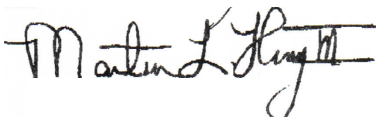
2. That you issue an appropriate official statement making clear that the United States opposes litigation whose purpose is to encourage foreclosures and/or discourage principal reductions and mortgage modifications;
3. That the Department of Justice determine whether the pressure tactics and litigation conduct referenced above give rise to any violation of laws or wrongful interference with government contracts, and take appropriate enforcement measures to remedy such wrongdoing;
4. That the Department of Justice coordinate with the committees of jurisdiction in the Congress to ensure the conduct of effective oversight of these housing sector developments, and make appropriate departmental officials available for any hearings or investigations; and
5. That the Department of Justice work with relevant federal departments and regulatory agencies, as well as state law enforcement officials, to ensure a coordinated response to the referenced litigation so that federal and state policies designed to minimize home foreclosures can be upheld.

On a more personal note, we are struck by the irony that Title VIII of the Civil Rights Act of 1968 (also known as the Fair Housing Act) – which prohibits discrimination in the sale, rental, and *financing of housing based on race, religion, national origin, sex, (and as amended) handicap and family status* – was passed on April 11, 1968. President Johnson rallied support for the legislation as a fitting tribute to my father's lifelong struggle for justice and fairness for all citizens exactly one week after he was taken from us. Today, some 46 years later, we believe there is much more work to be done to ensure that the promise of the Act moves closer to reality for those whose dream of homeownership should be protected by its mandate.

We would appreciate an opportunity to meet with you at the earliest possible date to discuss the government's response to this anti-consumer litigation, and how we can be of help to you in protecting the interests of America's homeowners. Please have your office contact my associate Kermit Thomas at 202-247-6810 to schedule a meeting.

Continued success in your principled efforts to bring an unprecedented level of courage, sensitivity and relevance to the office of Attorney General of the United States. We look forward to hearing from you.

Sincerely,



Martin Luther King, III

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